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# Report of the Committee on Constitutional and Governance Review

Academic Senate  
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## Report of the Committee on Constitutional and Governance Review

Final Draft

April 2, 1973

The Committee on Constitutional and Governance Review consists of three faculty members: Mary K. Huser, Department of Elementary Education; John Boaz, Department of Information Sciences; and Fred Fuess, Department of Agriculture; three students: William Brundege, Jim Manis, and Debbie Patterson; and three Civil Service employees: Betty Hinthorn, Francis Leary, and Marge Smith. The members were appointed by the President after consultation with the faculty members of the Academic Senate, Student Government officials, and the Civil Service Council. The President appointed Thomas Eimermann, Department of Political Science, as an Executive Director of the Committee. Mark Hellner, a student, has also provided some staff assistance to the group.

The Committee was instructed to divide its work into two different stages. The Committee's first task was to develop technical changes in the ISU Constitution that would appropriately reflect the recent changes in the Board of Regents' Governing Policies. The second stage involves a searching examination of the efficiency and desirability of our present governance structure, and an exploration of alternative structures.

As instructed, the Committee has held open meetings and has solicited responses from all interested parties. The attached recommendations for changes represent the Committee's best judgment on the necessary changes.

Attachments 3    Revisions List  
                    Summary of Remarks made to Committee by Professors Baker, Cohen  
                                    and Hicklin, and Mr. Joe Goleash  
                    Remarks made to the Committee by President Berlo

# Recommendations for Technical Changes in the ISU Constitution

## Final Draft

### Committee on Constitutional and Governance Review

April 2, 1973

#### 1. Article I, Section 1, Paragraph 2

Delete the last two sentences:

"While it cannot divest itself of ultimate responsibility and reserves to itself the power to act on its own initiative in all matters affecting the University, the Board will not act on any matter for which its governing policies call for participation of the University community without first obtaining the advice and recommendations of the Academic Senate and of the President. When acting on educational policy, the Board relies on the advice of the Academic Senate as transmitted to it by the President."

And substitute:

"While it cannot divest itself of ultimate responsibility and reserves to itself the power to act on its own initiative in all matters affecting the University, the Board will not act on any matter for which its governing policies call for participation of the University community without first obtaining the advice and recommendations of the Joint University Advisory Committee and the President. When acting on curriculum, subject matter and methods of instruction, instructional materials, and research, the Board will ordinarily accept the advice of the Academic Senate as transmitted to it by the President."

Rationale for change:

The Board has specified that it wants advice on Board policy to come through the Joint University Advisory Committee. We cannot mandate the Board to rely on our advice. The Board has stated, however, that it will ordinarily accept faculty advice on educational policies.

#### 2. Article I, Section 2

Delete the present first paragraph:

"The University community shall include students, faculty, and staff as herein defined for the purposes of implementing this constitution. The academic community shall include students and faculty. The University

shall maintain personnel files adequate to provide at any time an accurate listing of persons defined."

And substitute:

"The University community shall include faculty, students, and staff as herein defined. The academic community shall include students and faculty. The University shall maintain personnel files adequate to provide at any time an accurate listing of persons as defined."

Leave A as is.

Delete present B, C, and D:

B. Faculty

Any person appointed to a University position at the rank of instructor, assistant professor, associate professor, professor, and any other person whose appointment designates him as a faculty member, shall be defined as a faculty member. Faculty members with administrative duties shall be identified in their appointments as academic administrators.

C. Professional Staff

Any person appointed to a University position who is not a member of the faculty or civil service staff shall be defined as a Professional Staff member. Administrators without faculty rank shall be members of the Professional Staff.

D. Civil Service Staff

Any person appointed to a classified Civil Service position shall be defined as a Civil Service Staff member.

And substitute:

B. Staff

Staff shall be divided into the following categories:

1. Faculty and Administrative Employees

a. Faculty Members

Any person appointed to a University position at the rank of professor, associate professor, assistant professor, instructor, and any other person whose appointment designates him as a faculty member, shall be defined as a faculty member.



b. Administrative Employees

Any person with a University administrative and non-instructional position and who has been appointed to the position by the Board of Regents shall be defined as an administrative employee. Such persons may also hold faculty status at the same time.

2. Civil Service Employees

Any person employed by the University in a classified Civil Service employee.

3. Other Employees

Any person, including students, employed by the University in a position other than one described above shall be considered as belonging to the classification of Other Employees.

Rationale for change:

The Board has changed its definitions on categories of employment.

3. Article II, Section 3 C

In the last sentence, delete the words "adopt legislation" and substitute "recommend policy" so that it reads:

The Academic Senate shall recommend policy concerning student permanent education records which shall specify the conditions of disclosure of information contained in these records.

4. Article II, Section 4 A, Second Sentence

Delete:

"The Academic Senate may specify terms on which students may use University facilities for out-of-class activities."

Rationale for change:

Technical legal objections raised by Mr. Goleash.

5. Article II, Section 4 D

Delete the words "adopt legislation" and substitute "recommend policy" so that it reads:

The Academic Senate shall recommend policy concerning the principles and procedures governing student publications and other communications media which shall provide for appropriate editorial freedom and responsibility.

6. Article II, Section 6

Delete:

"Recognizing its obligations to formulate and communicate clearly and in advance standards of behavior which are considered essential to its educational mission and community life, the University shall publish a student code which shall be reviewed and approved periodically by the Academic Senate and made available to all students."

And substitute:

Recognizing its obligations to formulate and communicate clearly and in advance standards of behavior which are considered essential to its educational mission and community life, the University shall publish a student code and shall make it available to all students.

Rationale for change:

Senate cannot make such policies, only advise on them. Their role in such policies is spelled out in later sections.

7. Article III, Section 2

A. No change needed since it simply calls for the terms of employment (whatever they may be) to be clearly stated in writing.

B. Alter the first paragraph to read as follows:

All full time appointments for faculty holding academic rank shall be one of three types: 1) tenure appointments, 2) acceptance of resignation, 3) demonstrable financial exigencies, 4) discharge for cause, or 5) the reduction or elimination of a department or program. No appointment shall entail tenure unless the appointment explicitly so states.

2. Non-tenure appointments shall be for a specified term. They are renewable for a total of not more than seven years if the faculty member has served a probationary period of three years or less as a full-time member of the faculty of another institution of higher education, and are for a total of not more than four years if the faculty member has served a probationary period of four years or more as a full time member of the faculty of another institution of higher education. Time spent on leave of absence will not count as probationary period service, unless the individual faculty member and the University agree to the contrary at the time the leave is granted. Regardless of the stated term or other provisions of an appointment, non-tenure appointments shall guarantee the following dates of notification concerning the University's decision not to renew the appointment: 1) Not later than March 1 of the first academic year of service, if the appointment expires at the end of the year, at least three months in advance of its termination; 2) not later than December 15 of the second year of academic service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during the academic year, at least six months in advance of its termination; and 3) at least twelve months before the expiration of an appointment after two or more years in the institution. The period during which a faculty members is on non-tenure appointment shall be regarded as probationary; at any time during this period the University may offer tenure. Every appointment for a specific term must be accepted by the faculty member with the understanding that such an appointment entails no assurance or implication, except for the provisions for notification set forth above, that it will be renewed or that tenure will be granted.
3. Temporary appointments shall be for a specific purpose and for a term appropriate to that purpose. Notice of a decision not to reappoint is unnecessary for a faculty member on temporary appointment; the University, however, may offer to renew a temporary appointment for a period not to exceed seven years or to offer probationary appointment to a faculty member on temporary appointment, and in such a circumstance service in a temporary appointment shall count toward tenure in the probationary period.

D. Add the following as a new item:

The University shall notify faculty members of their ratings and recommendations of the non-financial terms and conditions of their renewals by April 15. Notification of the financial terms shall be made as soon as possible after the University's budget has been approved by the appropriate state agencies.

Rationale for change:

In Section 2B2 the old constitution calls for notification of all terms of renewal by April 15 at the absolute latest. It is clear that such a date is unworkable given the current budgetary processes in the state of Illinois. To keep the basic intent it was reworded to be more realistic. It was moved to a new section D because it applies to all continuing faculty, not just non-tenure.

8. Article III, Section 4 B 2

Delete:

2. Where termination of appointment is based upon financial exigency, or bona fide discontinuance of a program or department of instruction, Section 5 will not apply, but faculty members shall be able to have the issue reviewed by the Academic Senate, the President, or both. In every case of financial exigency or discontinuance of a program or department of instruction, the faculty member concerned will be given notice as soon as possible, and never less than one year in advance, or in lieu thereof he will be given severance salary for twelve months. Before terminating an appointment because of the abandonment of a program or department of instruction, the University will make every effort to place the affected faculty member in another suitable position. If an appointment is terminated before the end of a period of appointment, because of financial exigency, or because of the discontinuance of a program of instruction, the released faculty member's position will not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.

And substitute the following:

2. Where termination of appointment is based upon financial exigency, or bona fide reduction or elimination of a program or department, Section 5 will not apply, but faculty members shall be able to have the issue reviewed by the Academic Senate, the President, or both. In all such cases the faculty member being displaced will be given notice as soon as possible after the decision to reduce or eliminate has been made. Such notice shall be given to tenured faculty at least twelve months before the end of the academic year in which the faculty member is to be terminated. Notice for non-tenure appointments shall be given according to the dates established in Article II, Section 2 B 2. Before

terminating an appointment because of the reduction or elimination of a program or department, the University will make every effort to place the affected faculty member in another suitable position. If an appointment is terminated before the end of a period of appointment, because of financial exigency, or because of the reduction or elimination of a program or department, the released faculty member's position will not be filled by a replacement within a period of two years, unless the replaced faculty member has been offered reappointment and a reasonable time within which to accept or decline it.

9. Article III, Section 5 A

Delete the present section:

As a part of its bylaws, the Academic Senate shall adopt a procedure for handling faculty academic freedom and tenure cases, including faculty dismissal cases, which guarantees academic due process and which conforms to nationally recognized standards. To implement this procedure, the bylaws shall provide for an Academic Freedom and Tenure Committee, constituted of faculty members with tenure and elected by the Academic Senate.

And substitute:

The Academic Senate shall adopt bylaws which shall provide for an Academic Freedom and Tenure Committee constituted of faculty members with tenure and elected by the Academic Senate. The Academic Senate shall adopt a procedure for handling faculty Academic Freedom and Tenure cases, including dismissal cases, which guarantee academic due process and which conform to nationally recognized standards. Specific academic freedom and tenure case decisions shall be forwarded to the president.

11. Article III, Section 6 C

Add the word "recommendations" in sentence two, and substitute the words, "forwarded to" for "received by" so that the new section will read as follows:

C. Faculty Status Committee

The Academic Senate shall adopt legislation which shall provide for a Faculty Status Committee, consisting of faculty members. Detailed policy recommendations as to the handling of faculty appointments, promotion, salary, and tenure matters shall be approved by the Academic

Senate. Specific appointment, promotion, salary, and tenure recommendations from the Faculty Status Committee shall be reviewed by the faculty members of the Academic Senate and forwarded to the president.

Rationale for change:

F.S.C. cannot make the actual policy itself. It can only advise.

12. Article III, Section 6 E

Change the old:

- E. Sabbatical Leave and Leave Policy  
The Academic Senate shall adopt legislation which provides for a sabbatical and other leave policy for the faculty.

To read:

- E. Sabbatical Leave and Leave Policy  
The bylaws of the Academic Senate shall provide for faculty participation in the formation of policies on sabbatical and other forms of faculty leave.

Rationale for change:

The Senate does not have the authority to legislate leave policies. The Board has already done that.

13. Article IV, Section 1 A

Add the following statement as the second item in the list of presidential responsibilities and renumber items 2 through 9 as 3 through 10.

- 2. Implementation of protections afforded faculty, students, and staff in this constitution and provision of administrative structures to serve those needs.

Rationale for addition:

Because the specific job descriptions of the Dean of Faculties, Dean of Student Services, etc., is eliminated, it is important that someone be assigned their responsibilities.

14. Article IV, Section 2 B

Eliminate the last sentence:

Procedures for the selection and appointment of administrators shall be specified in legislation enacted or approved by the Academic Senate.

And substitute:

The Academic Senate may recommend procedures for the selection and appointment of administrators.

Rationale for change:

Senate cannot determine the policies, only recommend.

15. Article IV, Section 2 C, D, E

Eliminate all three sections completely.

Rationale for elimination:

We should not have to change the constitution every time a management structure is changed.

16. Article IV, Section 3 A and B

Change all references to the word "staff" and "staff members" to "employees" and add to the end of the second sentence of A:

"...or unavailability of appropriated funds."

This second sentence will, therefore, read as follows:

While administrative employees without faculty rank serve at the pleasure of the President, they are entitled to annual contracts which shall not be terminated during the term of the contract except by action of the Board of Regents and for reasons stated in writing involving inadequate performance of duty or unavailability of appropriated funds.

17. Article IV, Section 4 A

Change the title to academic dean. Eliminate the first sentence:

The Dean of Faculties shall have the primary responsibility for implementing the protections afforded faculty members under Article III of the Constitution.

Rationale for change:

This has now been assigned to the president and he can delegate this back to the academic dean if he wishes to.

And substitute:

The academic dean, in consultation with the president and with the advice of the Academic Senate, is responsible for developing and maintaining a viable academic organizational structure including academic units (departments, colleges, or other such units) of instruction, research, or public service.

Rationale for change:

This leaves the specific organizational structure more flexible.

The rest stays as is:

He shall inform and seek the advice of the Academic Senate before effecting a reorganization or change in the academic organization of the University, including the establishment or abolition of any academic unit. Each academic unit of the University shall be entitled to exercise a degree of self government which does not infringe upon other academic units.

Add as the last sentence of Section 4 A, the following:

The governance process of each academic unit shall include provisions for faculty and student participation. Such governance units shall be established before the purpose of advising the unit administrator.

GENERAL NOTE: Throughout the constitution, all references to "Dean of the Faculties" should be changed to "academic dean."

SPECIAL NOTE: Several additional clauses of the constitution were questioned in the Goleash memo.



18. Article I, Section 1, Paragraph 4 was questioned in the Goleash memo because he felt that the wording was not clear enough in specifying that University bylaws must conform to Board policy. On reexamination, Mr. Goleash has agreed that the first part of the paragraph sufficiently covers his original objection. Further clarification, however, is needed in Article VI, Section 1 B.
19. Article III, Section 3 A had been included on the suggested revision list. The original objection was that sufficient grievance procedures were not listed. However, this objection appears to be covered by the proposed revisions in Sections 5 A and B.
20. Article V, Section 1 E--This spells out functions of the Academic Senate and uses terminology (such as "determine") which has been challenged. The committee decided to defer action on this section while we consider the addition of other groups in Phase II.
21. Article VI, Section 1 B--This whole section is in need of revision, but has been deferred until Phase II in order to consider what types of groups will be having bylaws.

TEsv

Remarks to the  
Committee on Constitutional and Governance Review

During the Committee's early deliberations, several persons appeared to make presentations regarding the present ISU Constitution. None of the speakers had prepared statements which could be included here. Rather, what follows are summarizations of these presentations.

Dr. Paul J. Baker, February 26: Dr. Baker's statement focused upon the interpretation of the word "determine" as it is used in the ISU Constitution at Article V, Section 1E. An earlier interpretation by Mr. Joe Goleash, Jr., the University Legal Counsel, had drawn attention to this section when Mr. Goleash wrote that the Senate could not really "determine" anything. He said that because the President has been given legal responsibility for the operation of the University, only the President can actually "determine" anything internally. His concern essentially was that because the Academic Senate cannot legally bind the University, it should not be led to believe otherwise by the use of the word "determine" in describing the Senate's functions.

Dr. Baker presented a different interpretation of the word. He said that the intent of this section was to make the Academic Senate the central and final University arbiter of issues over which it is given Constitutional jurisdiction. This, he said, would prevent the use of independent and non-sanctioned committees for functions assigned to the Academic Senate by the Constitution.

He concluded that there had been no attempt to make the Senate a unilateral decision-making body. That instead, the Senate must share its authority with the President.

Dr. Ira Cohen, March 5: Dr. Cohen's presentation came at a time when the Committee was discussing the Joint University Advisory Committee, and the relationship of the Academic Senate to the Board of Regents. He was asked to speak because of his experience as chairman of JUAC, and because of his participation in the rewriting of the Board's "Blue Book."

Dr. Cohen stated that JUAC is advisory to the Board only on matters that concern all of the Regency universities. This creates, he said, a sense of weakness in the individual universities because the governing bodies of the schools are not ordinarily represented at Board meetings.

In answer to a question about why the Board's policies were revised, he said that it was his feeling that the Board had intended to reduce the apparent autonomy of the governing bodies. He added that in many cases the schools are not actively attempting to defend themselves.

He added, in closing, that he agreed with Dr. Baker's concept of "determinative."

Mr. Joe Goleash, Jr., February 26: Mr. Goleash appeared at the committee's request to explain his interpretation of the Board of Regent's intention in making their policy changes. He listed five such items:

1. To try to clearly include staff in the concept of a campus community.
2. To reaffirm faculty responsibilities for academic matters.
3. To recognize the importance of student input, particularly in areas that effect them.
4. To solidify the authority of the President and hold the President accountable for all University actions and operations.
5. To commit to the Joint University Advisory Committee the primary responsibility for provision of campus advice to the Board.

Mr. Goleash added that he felt the present Constitution is too specific in its references to job titles, committees, etc., and this might be changed in the Committee's Phase II work.

Dr. Charles Hicklin, February 26: Dr. Hicklin's presentation was a general one that touched on many topics. He presented his views on the basis of his experience on both the Academic Senate and the Joint University Advisory Committee.

Dr. Hicklin opened by stressing that the Board of Regents had, in changing their policies, made the President more accountable for the operations of the University. But in doing this, he said, one representative and elected body was preserved with the right to appear before the Board of Regents in times of disagreement. That elected body at ISU is the Academic Senate.

Dr. Hicklin, too, supported Dr. Baker's determination model, and added that the use of that model preserves the influence of the designated advisory group. He went on to say that there is a long history of faculty participation in such areas as budget making.

Dr. Hicklin also briefly spoke about JUAC. He said that its strength is in its joint representation of all three Regency universities. In closing, he noted that JUAC had not been intended to be a pipeline between the campus and the Board, but rather a committee advisory only on joint policies or problems.

Remarks to the  
Committee on Constitutional and Governance Review  
Dr. David Berlo

Although I didn't anticipate your interest in my comments on governance at this early state of your deliberations, I am pleased to meet with you, and to comply with your request for some of my general views.

I am grateful to this committee for helping me to fulfill one of the responsibilities of my office as mandated by the Board of Regents; namely, to develop responsible, effective, and broad-based participation throughout the University in the decision-making processes of the University. The administration needs the advice and counsel of all segments of the University Community. The University is a complex institution, information is inevitably fragmented and diffused, and the aspirations and points of view of all need to be utilized in making difficult decisions at all levels of administration.

In that regard, let me express my personal observations and beliefs. I've been at Illinois State University for a year and a half. In that time, I've come to know many of the faculty, staff and students. I wish I knew more of them, but I have observed enough to convince me that we have a faculty that is second to none in its competence and commitment to our students, that we have a student body that exceeds University expectations in both the quality of their entrance credentials and the quality of their performance here, and that we have a Civil Service family who want to be a part of the University, and are willing to do their share. I'm proud of this faculty, staff and student body, and I welcome, openly, without reservation, all of the advice and counsel that members of the administration can obtain on both academic and other issues within the University.

With respect to academic advice, I am pleased that the wording adopted by the Board of Regents is the wording that was generally supported by Illinois State's members of the Joint University Advisory Committee and by me. We had recommended, and I strongly support the recommendation, that the faculty should have "primary responsibility in the fundamental areas of curriculum, subject matter and methods of instruction, instructional materials, and research." I believe that, although I believe there should be significant student input into such academic decisions as well. For those reasons, I approve of an academic deliberative body such as the Academic Senate, with both faculty and student input to the academic administration of the University. In my view, however, for such an organization to fulfill the charge given by the Board for responsible, effective and broad-based participation, several assumptions must be met.

I believe there must be full and complete communication linkages between the Academic Senate and the departmental faculties and students. We must insure that the entire academic community is fully involved in the important deliberations of the Senate, and that the views of all faculty and students have adequate channels for expression to the Senate.

I believe members of the Senate should be chosen from and represent academic constituencies. Such is now the case for faculty representatives, and I understand from Dean Rives that such was the intent originally for student representatives; however, we have not yet succeeded in devising a system for such student representation. I am pleased that our student leaders are currently working on this problem, and confident that they will find an adequate solution over time.

The Academic Senate must make efficient use of the limited time we can reasonably ask faculty and student members to contribute. It should focus on questions of academic importance, so that there is adequate time to deliberate on those questions, and to communicate with the entire community about those questions. This need for focus is related to what I consider the fourth assumption.

Fourth, there must be a willingness on the part of our very finest faculty and students to serve on the Academic Senate. That will not occur over time unless the deliberations of the Senate are focused. Governance is not fun. It is hard work, and takes time away from the faculty member's and student's chief concerns: teaching and learning, instruction and scholarship. No one should seek to participate in academic governance, but no one should refuse when asked by his or her colleagues. We must all accept the value that there is no higher academic honor than to be selected to serve on an academic advisory body.

If we meet those assumptions, the high quality of this faculty and student body assures good advice. I cannot speak personally for the Dean of the University, to whom most academic advice is most appropriately given; however, I'm confident that he would agree with me that we would be prepared to accept that advice except under most unusual circumstances.

There also are many important questions before the University that are not primarily academic. The Board has instructed its presidents to utilize the advice of the appropriate segments of the University in those areas. I agree with that position. Actually, the University is functioning quite well at present in a number of such areas; e.g., the Health Service, the Athletic Council, Association of Residence Halls, Campus Recreation Committee, etc. I hope the Committee will analyze over time the number and function of such advisory groups, and insure that appropriate representation is given to each of the three major groups within the University: faculty, staff, and students. I hope, too, that the Committee might consider the following factors as part of its set of criteria in establishing such advisory groups to various administrators within the University:

1. Establish mechanisms to pick advisory members most carefully, and only after they are informed as to their duties and responsibilities.
2. Don't overburden faculty, staff and students with more service than is needed.
3. Don't fractionate advisory groups so that there are too many groups working on similar or overlapping problems
4. Relate the advisory groups to the appropriate administrative office so that they can work most effectively.

I hope I haven't taken too much of your time, and that I have been responsive to the areas of your interest. If you should think I can assist your deliberations at any time, please don't hesitate to let me know.

David Berlo

February 26, 1973

Remarks to the Committee on Constitutional and Governance Review

Addendum to the  
Report of the Committee on Constitutional and Governance Review

Final Draft

April 2, 1973

Two errors have been made in the typing of the final draft of the "Report of the Committee on Constitutional and Governance Review."

At page 4, #7, Section B, the first two paragraphs should read:

All full time appointments for faculty holding academic rank shall be one of three types: 1) tenure appointments, 2) non-tenure appointments, or 3) temporary appointments. The continuation of all appointments shall be contingent upon the availability of appropriated funds.

- I. Tenure appointments shall be for an indefinite term and may be terminated only by 1) retirement, 2) acceptance of resignation, 3) demonstrable financial exigencies, 4) discharge for cause, or 5) the reduction or elimination of a department or program. No appointment shall entail tenure unless the appointment explicitly so states.

Article III, Section 3 A

Change the word, "probationary" to "non-tenure."

For additional comments concerning this section, refer to page 11, #19.

